

REMARKS

The Applicants thank the Examiner for the detailed Office Action dated July 31, 2001. Claims 1-17 were pending in the Application. Claims 1-4, 9-15, and 17 stand rejected. Claims 5-8 and 16 have been withdrawn from consideration. Claims 1, 3, 12-15, and 17 have been amended. Claims 18 and 19 have been added. Claims 1-4, 9-15, and 17-19 are now pending in this Application. This Reply and Amendment is intended to be fully responsive to the Office Action dated July 31, 2001.

Drawings

On Page 2 of the Office Action, the Examiner objected to the drawings. The Examiner stated " the silverware compartment attached to the tray (30), as in Claims 9-12 and 17, *must* be shown or the feature(s) canceled from the claims(s)." FIGURE 2 has been amended to show the silverware compartment. Support for this amendment is found in the Specification at p. 6, lines 5-9; and at p. 8, lines 1-15. No new matter has been added. Accordingly, the objection has been overcome.

Specification

On Pages 2-3 of the Office Action, the Examiner objected to the abstract of the disclosure. The specification has been amended to clarify the brief description of the drawings in view of the amendment to FIGURE 2.

The Abstract of the Disclosure has been amended in view of the objection by

Claim Objections

On Page 3 of the Office Action, the Examiner objected to Claims 1, 3, 13-15, and 17 because of informalities. Claims 1, 3, 13-15, and 17 have been amended to remedy the informalities. Accordingly, the objection has been overcome.

Claim Rejections – 35 U.S.C. § 112 ¶2

On Page 4 of the Office Action, the Examiner rejected Claims 13-15 and 17 under 35 U.S.C. § 112 ¶2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Claim 13 has been amended to particularly point out and distinctly claim the subject matter in compliance with 35 U.S.C. § 112 ¶ 2. Accordingly, the rejection has been overcome.

Claim 13 has been amended to recited "a package sized to contain the drainer, wherein the package is too small to contain the tray when in the deployed configuration". As such, the "package is large enough to contain the "drainer", but not large enough to contain the "tray" when the tray is in the deployed configuration (e.g. the unfolded or unrolled configuration).

Claim Rejections – 35 U.S.C. § 102

On Page 5 of the Office Action, the Examiner rejected Claims 1-4 and 9-14 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,800,957 ("Krause"). On Page 5 of the Office Action, the Examiner rejected Claims 1-4 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,170,676 ("Patedia et al.").

Claim 1 is in independent form. Claims 2-4 and 9-12 depend from independent Claim 1.

Krause shows a "combination dish rack and tray" "made unitarily from plastic and including at least three panels (preferably four) integrally hinged to one another" (see Krause at Abstract). The panels (identified by reference numerals 12, 13, 14, and 15) cooperate to define the tray (see Krause at Col. 3, Lines 41-46).

Patedia et al. shows a "foldable dish drainer" having a "base with first and second sections hingedly joined at adjacent parallel edges to form a dish drain surface and

moveable into a parallel overline position in a folded mode" (see Patedia et al. at Abstract). The "base member" 16 is "formed of three base sections 17, 18, and 19" (see Patedia et al. at Col. 2, Lines 44-46). A "dish support member" 40 form an upstanding structure that functions to receive dishes or utensils (see Patedia et al. at Col. 3, Lines 6-45).

Krause and Patedia et al. do not identically disclose the combination of elements recited in independent Claims 1 and 13 (as amended). For example, independent Claim 1 (as amended), recites a "dish drainer and tray set" including, among other elements, a tray "being compacted to a size sufficiently small to allow the tray to fit entirely within the interior of the drainer when the tray is in a second storage configuration". The "combination dish rack and tray" disclosed in Krause "is unitary (i.e., not separate components) and does not provide for storing its entire tray" (reference numerals 12, 13, 14, 15) "within the interior of the drainer." Likewise, the "foldable dish drainer" disclosed in Patedia et al. is unitary and does not provide for storing its "base section" (reference numerals 16, 17, 18, and 19) "within the interior of the drainer." Accordingly, independent Claim 1 (and corresponding dependent Claims 2-4 and 9-12) are not anticipated by Krause or Patedia et al. under 35 U.S.C. § 102(b) and are patentable.

Claim Rejections – 35 U.S.C. § 103(a)

On Page 6 of the Office Action, the Examiner rejected Claims 13-15 and 17 under 35 U.S.C. § 103(a) as being obvious over Krause.

Claim 13 is in independent form. Claims 14, 15, and 17 depend from independent Claim 13.

Krause (alone or in combination with any of the cited references) does not result in the subject matter recited in independent Claim 13, as amended (or Claims 14, 15,

or 17 that depend from independent Claim 13), because the proposed modification of Krause does not disclose, teach or suggest the "dish drainer", "tray" or "package" recited in independent Claim 13 (as amended).

For example, independent Claim 13 recites a "dish drainer, tray set and package" including, among other limitations, a drainer interior (defined by a "bottom," "walls," and an "open top"), and a "tray" that fits "entirely within the drainer interior when in the storage configuration" and has a "footprint greater than the bottom of the drainer when in the deployed configuration," and a "package sized to contain the drainer, wherein the package is too small to contain the tray when in the deployed configuration."

Furthermore, to transform Krause into the "dish drainer", "tray" and "package" recited in independent Claim 13 (as amended) would require still further modification, and such modification is taught only by the Applicant's own disclosure (using hindsight), which is improper. No suggestion or motivation to combine the cited references is presented in the cited references themselves.

Accordingly, the Applicants request withdrawal of the rejection of dependent 13-15 and 17 under 35 U.S.C. § 103(a).

* * *

The Applicants respectfully submit that each and every outstanding objection and rejection has been overcome, and the present Application is in a condition for allowance. The Applicants request reconsideration and allowance of pending Claims 1-4, 9-15, and 17-19.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date 10/31/01

By Scott D. Anderson

FOLEY & LARDNER
Firstar Center
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-5367
Telephone: (414) 297-5740
Facsimile: (414) 297-4900

Scott D. Anderson
Attorney for Applicant
Registration No. 46,521

APPENDIX A

Version with Markings to Show Changes Made to the Specification

App. No. 09/649,399

Atty. Dkt. No. 044123-1474

Please substitute for the Abstract of the Disclosure the following version with markings to show changes made:

A dish drainer and tray system [is disclosed which provides] providing reduced space requirements for packaging, shipping, display and storage. The tray may be compacted into storage size which allows it to fit in the drainer, thereby allowing the drainer rather than the combination to determine the space requirements. In one embodiment, the tray folds about one or more live hinges, and in a second embodiment the tray rolls and includes a closure to maintain it in the rolled position. A particularly preferred [present invention also] embodiment includes a detachable silverware compartment that drains directly into the sink and which can be stored with the tray in the drainer.

Please substitute for page 4, line 24-25 of the specification the following rewritten versions of the text, as amended:

FIGURE 2 is [a] an exploded perspective view of the dish drainer and tray shown in FIGURE 1 with [the tray in its deployed or use configuration] a silverware container;

APPENDIX B

VERSION WITH MARKINGS TO SHOW CHANGES MADE TO THE CLAIMS

APPLICATION No. 09/649,399

ATTY. DKT. NO.: 044123-1474

1. (Amended Once) A dish drainer and tray set comprising:
a dish drainer having an interior and a base;
a tray having a footprint larger than the base of the drainer when the tray is in a first deployed configuration; and
the tray being compacted to a size sufficiently small to allow [it] the tray to fit entirely within the interior of the drainer when the tray is in a second storage configuration.
3. (Amended Once) The set of claim 1 wherein the tray includes at least one hinge, and [where] wherein the tray is folded about the hinge when the tray is converted from [its] the deployed to [its] the storage configuration.
12. (Amended Once) The set of claim 9 wherein the silverware compartment is sized to fit entirely within the drainer interior [with] when the tray [in its] is in the storage configuration.
13. (Amended Once) A combination dish drainer, tray set and package comprising [of;];
a dish drainer having a bottom, walls and an open top [together defining] which together define a drainer interior;
a tray [having] configurable in a first compacted storage configuration and a second deployed configuration, the tray fitting entirely within the drainer interior when in [its] the storage configuration and having a footprint greater than the bottom of the drainer when in [its] the deployed configuration, the tray being in its storage configuration; and
a package sized to contain the drainer, wherein the package [being] is too small to contain [this] the tray when in [its] the deployed configuration.

14. (Amended Once) The [set and package] combination dish drainer, tray set and package of claim 13 wherein the package is selected from [this] the group consisting of corrugated, folding carton, or plastic film packages or packages made from combinations thereof.

15. (Amended Once) The [set and package] combination dish drainer, tray set and package of claim 13 wherein the tray is folded in [its] the storage configuration.

17. (Amended Once) The [set and package] combination dish drainer, tray set and package of claim 13 further including a silverware compartment selectively attachable to and detachable from the tray when the tray is in [its] the deployed configuration, the compartment [also] being placed within the drainer interior.



3634

Atty. Dkt. No. 044123-1474

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Travers et al.

Title: DISH DRAINER AND TRAY
SYSTEM WITH COMPACT
STORAGE OF THE TRAY

Appl. No.: 09/649,399

Filing Date: 08/28/2000

Examiner: J. Novosad

Art Unit: 3634

Commissioner for Patents
Box NON-FEE AMENDMENT
Washington, D.C. 20231

CERTIFICATE OF MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on the date below.	
Deborah A. Kacorowski	(Printed Name)
Deborah A. Kacorowski	(Signature)
10.31.2001	(Date of Deposit)

RECEIVED
JAN 08 2002
GROUP 3600REPLY AND AMENDMENT TRANSMITTAL

Transmitted herewith is a Reply and Amendment in the above-identified application (along with a replacement FIGURE 2 and an Appendices A and B).

- ☐ Small Entity status under 37 C.F.R. § 1.9 and § 1.27 has been established by a Small Entity statement previously submitted.
- ☐ Small Entity statement is enclosed.
- ☒ The fee required for additional claims is calculated below:

	Claims as Amended		Previously Paid For		Extra Claims Present		Rate		Additional Claims Fee
Total Claims:	19	—	20	=	0	x	\$18.00	=	\$0.00
Independents:	2	—	3	=	0	x	\$84.00	=	\$0.00
First presentation of any Multiple Dependent Claims:						+	\$280.00	=	\$0.00
CLAIMS FEE TOTAL:									\$0.00

- ☐ Applicant hereby petitions for an extension of time under 37 C.F.R. §1.136(a) for the total number of months checked below:

<input type="checkbox"/>	Extension for response filed within the first month:	\$110.00	\$0.00
<input type="checkbox"/>	Extension for response filed within the second month:	\$400.00	\$0.00
<input type="checkbox"/>	Extension for response filed within the third month:	\$920.00	\$0.00
<input type="checkbox"/>	Extension for response filed within the fourth month:	\$1,440.00	\$0.00
<input type="checkbox"/>	Extension for response filed within the fifth month:	\$1,960.00	\$0.00
	EXTENSION FEE TOTAL:		\$0.00
	CLAIMS AND EXTENSION FEE TOTAL:		\$0.00
<input type="checkbox"/>	Small Entity Fees Apply (subtract ½ of above):		\$0.00
	TOTAL FEE:		\$0.00

- ☐ Please charge Deposit Account No. 06-1447 in the amount of \$0.00. A duplicate copy of this transmittal is enclosed.
- ☐ A check in the amount of \$0.00 is enclosed.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date 10/31/01

By Scott D. Anderson

FOLEY & LARDNER
Firststar Center
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-5367
Telephone: (414) 297-5740
Facsimile: (414) 297-4900

Scott D. Anderson
Attorney for Applicant
Registration No. 46,521